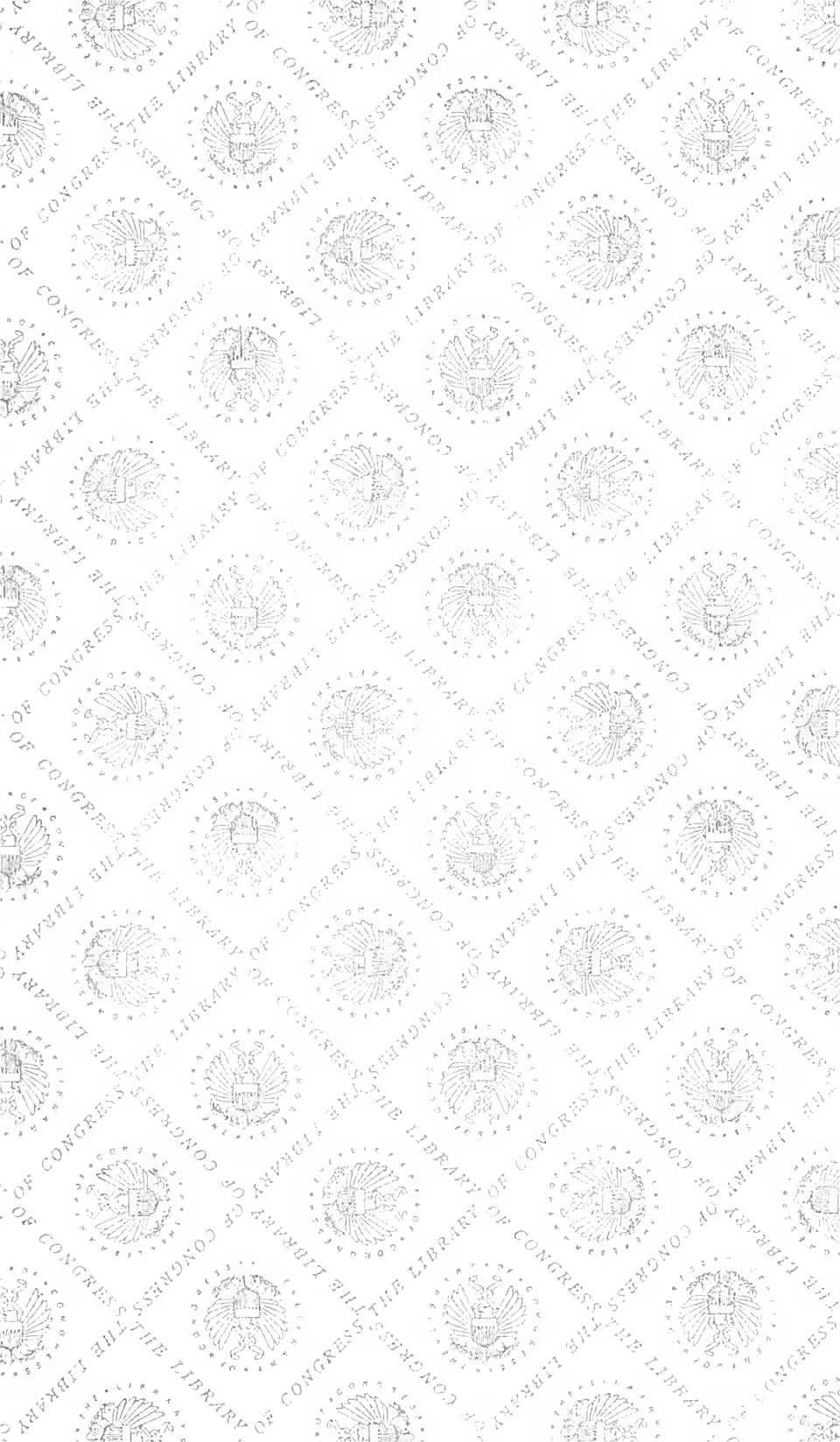


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SPEECH
OF
HON. JAMES BUCHANAN,
OF PENNSYLVANIA,
IN SUPPORT OF THE VETO POWER,
AND
IN REPLY TO MR. CLAY, OF KENTUCKY.

DELIVERED IN THE UNITED STATES SENATE, WEDNESDAY, FEB. 2, 1842.

Mr. BUCHANAN being entitled to the floor, addressed the Senate as follows:

MR. PRESIDENT: I am now sorry that I ever committed myself to make a speech upon this subject. I assure you that it has become extremely cold; and I think I never shall again pledge myself to address the Senate at the end of a week or ten days, to be occupied in the discussion of an in-termining and different question. Cold as the subject had become, it is now still colder, after having waited for an hour to hear a debate on the mere reference of a memorial to the Committee on Commerce. But although the subject may have lost its freshness to my mind, and I may not be able to reply to the Senator from Kentucky [Mr. CLAY] with as much effect as if the discussion on the Bankrupt bill had not intervened, yet it has lost none of its intrinsic importance.

Before I commence the discussion, however, let me clearly and distinctly state the question to be decided by the Senate.

Under the Constitution of the United States, as it now exists—

"Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law."

The same constitutional rule is applicable to

"every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary, except on a question of adjournment."

The joint resolution offered by the Senator, proposes to change the existing Constitution, so as to require but a bare majority of all the members belonging to each House to pass any bill into a law notwithstanding the President's objections.

The question then is, whether the Constitution ought to be so amended as to require but a bare majority of all the members of each House, instead of two-thirds of each House, to override the President's veto; and, in my opinion, there never was a more important question presented to the Senate. Is it wise, or is it republican, to make this fundamental change in our institutions?

The great Whig party of the country have identified themselves, in the most solemn manner, with this proposed amendment. Feeling sensibly, by sad experience, that they had suffered since the late Presidential election, from not having previously presented a clear exposition of their principles "to the public eye," they determined no longer to suffer from this cause. Accordingly, the conscript fathers of the church assembled in convention at the city of Washington, on the 13th September last—at the close of the ever memorable extra session—and adopted an address to the people of the United States. This manifesto contains a distinct avowal of the articles of their creed; and, first and foremost among them all, is a denunciation of the veto power. I shall refer very briefly to this address; a thought to use the language of my friend, the present Governor of Kentucky, it contains much good reading. So exasperated were the feelings of the party then, and so deeply were they pledged to the abolition of the veto power, that

they solemnly and formally read John Tyler out of the Whig church, because he had exercised it against the bills to establish "a fiscal agent" and a "fiscal corporation" of the United States. The form of excommunication bears a resemblance to the Declaration of Independence which severed this country forever from Great Britain. I shall give it in their own emphatic language. They declare that John Tyler—

"By the course he has adopted in respect to the application of the veto power to two successive bank charters, each of which there was just reason to believe would meet his approbation; by the withdrawal of confidence from his real friends in Congress and from the members of his Cabinet; by the bestowal of it upon others notwithstanding their notorious opposition to leading measures of his Administration, has voluntarily separated himself from those by whose exertions and sufferings he was elevated to that office through which he reached his present exalted station," &c. &c.

After a long preamble, they proceed to specify the duties which the Whig party are bound to perform to the country, and at the very head of these duties, the destruction of the veto power contained in the Constitution stands prominently conspicuous. The following is the language which they have employed:

"First. A reduction of the Executive power, by a further limitation of the veto, so as to secure obedience to the public will, as that shall be expressed by the immediate Representatives of the people and the States, with no other control than that which is indispensable to avert hasty or unconstitutional legislation."

Mark me, sir, the object is not to secure obedience to the public will as expressed by the people themselves, the source of all political power; but as expounded by their Senators and Representatives in Congress.

After enumerating other duties, they declare that "to the effectuation of these objects ought the exertions of the Whigs to be hereafter directed." And they make a direct appeal to the people by announcing that "those only should be chosen members of Congress who are willing cordially to co-operate in the accomplishment of them." Twenty thousand copies of this manifesto were ordered to be printed and circulated among the people of the United States.

This appeal to the people, sir, was a vain one. The arrival of their principles destroyed them. The people did not come to the rescue. Never was there a more disastrous defeat than theirs, at the last fall elections, so immediately after their triumphant victory. Thank Heaven! the people have not thus far responded to this appeal, and I trust they may never consent to abolish the veto power. Sir, the Democratic party in regard to this power, in the language of the doughty Barons of England, centuries ago, are not willing that the charter of their liberties shall be charged. We shall hold on to this veto power as one of the most effectual safeguards of the Union, and one of the surest means of carrying into effect the will of the people.

In my humble judgment, the wise statesman ought equally to avoid a foolish veneration for ancient institutions on the one hand, and a restless desire for change on the other. In this respect, the middle is the safer course. Too great a veneration for antiquity would have kept mankind in bondage; and the plea of despotism and tyrants, in every age, has been, that the wisdom of past generations has

established institutions which the people ought not to touch with a sacrilegious hand. Our ancestors were great innovators; and had they not been so, the darkness and the despotism which existed a thousand years ago would have continued until the present moment. For my own part, I believe that the human race, from generation to generation, has in the main been advancing, and will continue to advance, in wisdom and knowledge; and whenever experience shall demonstrate that a change, even in the Federal Constitution, will promote the happiness and prosperity of the people, I shall not hesitate to vote in favor of such a change. Still, there are circumstances which surround this instrument with peculiar sanctity. It was framed by as wise men and as pure patriots as the sun of heaven ever shone upon. We have every reason to believe that Providence smiled upon their labors, and predestined them to bless mankind. Immediately after the adoption of the Constitution, order arose out of confusion; and a settled Government, capable of performing all its duties to its constituents with energy and effect, succeeded to the chaos and disorder which had previously existed under the Articles of Confederation. For more than half a century, under this Constitution, we have enjoyed a greater degree of liberty and happiness than has ever fallen to the lot of any other nation on earth. Under such circumstances, the Senator from Kentucky, before he can rightfully demand our votes in favor of a radical change of this Constitution, in one of its fundamental articles, ought to make out a clear case. He ought not only to point out the evils which the country has suffered from the existence of the veto power, but ought to convince us, they have been of such magnitude, that it is not better "to bear the ills we have, than fly to others that we know not of." For my own part, I believe that the veto power is one of the strongest and stateliest columns of that fair temple which our ancestors have dedicated to liberty; and that if you remove it from this time-honored edifice, you will essentially impair its strength and mar its beauty. Indeed there will then be great danger that in time it may tumble into ruins.

Sir, in regard to this veto power, as it at present exists, the convention which framed the Constitution, although much divided on other subjects, were unanimous. It is true that in the earlier stages of their proceedings, it was considerably diseased, and presented in different aspects. Some members were in favor of an absolute veto, and others were opposed to any veto, however qualified; but they at length unanimously adopted the happy mean, and framed the article as it now stands in the Constitution. According to Mr. Madison's report of the debates and proceedings in the convention, we find that on Saturday the 21st July, 1787, "the tenth resolution giving the Executive a qualified veto, requiring two-thirds of each branch of the Legislature to overrule it, was then agreed to *nem. con.*" The convention continued in session for nearly two months after this decision; but so far as I can discover, no member ever attempted to disturb this unanimous decision.

A principle thus settled ought never to be rashly assailed under the excitement of disappointed feel-

ings occasioned by the veto of two favorite measures at the extra session, on which Senators had fixed their hearts. There ought to have been time for passion to cool and reason to resume her empire. I know very well that the Senator from Kentucky had announced his opposition to the veto power so far back as June, 1840, in his Hanover speech; but that speech may fairly be considered as a declaration of his own individual opinion on this subject. The great Whig party never adopted it as one of the cardinal articles of their faith, until, smarting under disappointment, they saw their two favorite measures of the extra session fall beneath this power. It was then, and not till then, that the resolution, in effect, to abolish it was adopted by them as a party, in their manifesto. The present amendment proposes to carry this resolution into execution.

I should rather rely upon the judgment of the Senator from Kentucky on any other question, than in regard to the veto power. He has suffered so much from its exercise as to render it almost impossible that he can be an impartial judge. History will record the long and memorable struggle between himself and a distinguished ex-President, now in retirement. This was no common party strife. Their mighty war shook the whole Republic to its centre. The one swayed the majority in both Houses of Congress; whilst the other was sustained by a majority of the people. Under the lead of the one, Congress passed bills to establish a Bank of the United States;—to commence a system of internal improvements;—and to distribute the proceeds of the public lands among the several States; whilst the other, strong in his convictions of duty, and strong in his belief that the voice of the sovereign people would condemn these measures of their representatives, vetoed them every one. And what was the result? Without, upon the present occasion, expressing an opinion on any one of these questions, was it not rendered manifest that the President elected by the mass of the people, and directly responsible to them for his conduct, understood their will and their wishes better than the majority in the Senate and House of Representatives? No wonder then that the Senator from Kentucky should detest the veto power. It ought never to be torn from its foundations in the Constitution by the rash hands of a political party, impelled to the deed under the influence of defeated hopes and disappointed ambition.

I trust now that I shall be able to prove that the Senator from Kentucky has entirely mistaken the character of the veto power; that in its origin and nature it is peculiarly democratic; that in the qualified form in which it exists in our Constitution, it is but a mere appeal by the President of the people's choice from the decision of Congress to the people themselves; and that whilst the exercise of this power has done much good, it never has been, and never can be, dangerous to the rights and liberties of the people.

This is not "an arbitrary and monarchical power;" it is not "a monarchical prerogative," as it has been designated by the Senator. If it were, I should go with him, heart and hand, for its abolition. What is a monarchical prerogative? It is a power vested in an Emperor or King, neither elect-

ed by, nor responsible to, the people, to maintain and preserve the privileges of his throne. The veto power in the hands of such a sovereign has never been exerted, and will never be exerted, except to arrest the progress of popular liberty, or what he may term popular encroachment. It is the character of the public agent on whom this power is conferred, and not the nature of the power itself, which stamps it either as democratic or arbitrary. In its origin, we all know that it was purely democratic. It owes its existence to a revolt of the people of Rome against the tyrannical decrees of the Senate. They retired from the city to the Sacred Mount, and demanded the rights of freemen. They thus extorted from the aristocratic Senate a decree authorizing them annually to elect tribunes of the people. On these tribunes was conferred the power of annulling any decree of the Senate, by simply pronouncing the word "*veto*." This very power was the only one by means of which the Democracy of Rome exercised any control over the Government of the Republic. It was their only safeguard against the oppression and encroachments of the aristocracy. It is true that it did not enable the people, through their tribunes, to originate laws; but it saved them from all laws of the Senate which encroached on their rights and liberties.

Now, sir, let me ask the Senator from Kentucky, was this an arbitrary and monarchical power? No, sir; it was strictly democratic. And why? Because it was exercised by tribunes elected by the people, and responsible annually to the people; and I shall now attempt to prove that the veto power, under our Constitution, is of a similar character.

Who is the President of the United States, by whom this power is to be exercised? He is a citizen, elected by his fellow citizens to the highest official trust in the country, and directly responsible to them for the manner in which he shall discharge his duties. From the manner in which he is elected, he more nearly represents a majority of the whole people of the United States, than any other branch of the Government. Sir, one-fourth of the people may elect a decided majority of the Senate. Under the Constitution, we are the representatives of sovereign States, and little Delaware has an equal voice in this body with the Empire State. How is it in regard to the House of Representatives? Without a resort to the gerrymandering process which of late years has become so common, it may often happen, from the arrangement of the Congressional districts, that a minority of the people of a State will elect a majority of representatives to Congress. Not so in regard to the President of the United States. From necessity, he must be elected by the mass of the people in the several States. He is the creature of the people—the mere breath of their nostrils—and on him, as the tribune of the people, have they conferred the veto power.

Is there any serious danger that such a magistrate will ever abuse this power? What earthly inducement can he have to pursue such a course? In the first place, during his first term, he will necessarily feel anxious to obtain the stamp of public approbation on his conduct, by a reelection. For this reason, if no other existed, he will not array himself, by the exercise of the veto power

against a majority in both Houses of Congress, unless in extreme cases, where, from strong convictions of public duty, he may be willing to draw down upon himself their hostile influence.

In the second place, the Constitution leaves him in a state of dependence on Congress. Without their support, no measure recommended by him can become a law, and no system of policy which he may have devised can be carried into execution. Deprived of their aid, he can do nothing. Upon their cordial co-operation the success and glory of his administration must, in a great degree, depend. Is it, then, at all probable that he would make war upon Congress, by refusing to sanction any one of their favorite measures, unless he felt deeply conscious that he was acting in obedience to the will of the people, and could appeal to them for support? Nothing short of such a conviction, unless it be to preserve his oath inviolate to support the Constitution, will ever induce him to exercise a power always odious in the eyes of the majority in Congress, against which it is exerted.

But there is still another powerful influence which will prevent his abuse of the veto power. The man who has been elevated by his fellow-citizens to the highest office of trust and dignity which a great nation can bestow, must necessarily feel a strong desire to have his name recorded in untarnished characters on the page of his country's history, and to live after death in the hearts of his countrymen. This consideration would forbid the abuse of the veto power. What is posthumous fame in almost every instance? Is it not the voice of posterity re-echoing the opinion of the present generation? And what body on the earth can give so powerful an impulse to public opinion, at least in this country, as the Congress of the United States? Under all these circumstances we must admit that the opinion expressed by the Federalist is sound, and that "it is evident that there would be greater danger of his not using his power when necessary, than of his using it too often, or too much." Such must also have been Mr. Jefferson's opinion. When consulted by General Washington in April, 1793, as to the propriety of vetoing "the act for an apportionment of Representatives among the several States, according to the first enumeration," what was his first reason in favor of the exercise of his power upon that occasion? "Viewing the bill," says he, "either as a violation of the Constitution, or as giving an inconvenient exposition to its words, is it a case wherein the President ought to interpose his negative?" "I think it is." *"The non use of his negative power begins already to excite a belief that no President will ever venture to use it; and consequently, has begotten a desire to raise up barriers in the State Legislatures against Congress throwing off the control of the Constitution."* I shall not read the other reasons he has assigned, none of them being necessary for my present purpose. Perilous, indeed, I repeat, is the exercise of the veto power, and "no President will ever venture to use it," unless from the strongest sense of duty, and the strongest conviction that it will receive the public approbation.

But, after all, what is the nature of this qualified veto under the Constitution? It is, in fact, but an appeal taken by the President from the decision of

Congress, in a particular case, to the tribunal of the sovereign people of the several States, who are equally the masters of both. If they decide against the President, their decision must finally prevail, by the admission of the Senator himself. The same President must either carry it into execution himself, or the next President whom they elect will do so. The veto never can do more than postpone legislative action on the measure of which it is the subject, until the will of the people can be fairly expressed. This suspension of action, if the people should not sustain the President, will not generally continue longer than two years, and it cannot continue longer than four. If the people, at the next elections, should return a majority to Congress hostile to the veto, and the same measure should be passed a second time, he must indeed be a bold man, and intent upon his own destruction, who would, a second time, arrest it by his veto. After the popular voice has determined the question, the President would always submit, unless, by so doing, he clearly believed he would involve himself in the guilt of perjury, by violating his oath to support the Constitution. At the end of four years, however, in any and every event, the popular will must and would be obeyed by the election of another President.

Sir, the Senator from Kentucky, in one of those beautiful passages which always abound in his speeches, has drawn a glowing picture of the isolated condition of kings, whose ears the voice of public opinion is never permitted to reach; and he has compared their condition in this particular, with that of the President of the United States. Here too, he said, the Chief Magistrate occupied an isolated station, where the voice of his country and the cries of its distress could not reach his ear. But is there any justice in this comparison? Such a picture may be true to the life when drawn for an European monarch; but it has no application when over to a President of the United States. He, sir, is no more than the first citizen of this free Republic. No form is required in approaching his person, which can prevent the humblest of his fellow-citizens from communicating with him. In approaching him, a freeman of this land is not compelled to decorate himself in fantastic robes, or adopt any particular form of dress, such as the court etiquette of Europe requires. The President intermingles freely with his fellow-citizens, and hears the opinions of all. The public press attacks him—political parties, in and out of Congress, assail him, and the thunders of the Senator's own denunciatory eloquence are reverberated from the Capitol, and reach the White House before its incumbent can lay his head upon his pillow. His every act is subjected to the severest scrutiny, and he reads in the newspapers of the day the decrees of public opinion. Indeed it is the privilege of every body to assail him. To contend that such a Chief Magistrate is isolated from the people, is to base an argument upon mere fancy, and not upon facts. No, sir, the President of the United States is more directly before the people, and more immediately responsible to the people, than any other department of our Government: and we be to that President who shall ever affect to withdraw from the public

have been in bad taste; but what do they prove? The Senator does not and cannot say that they ever changed a single vote. In the instances to which he refers, they were the declaration of a fact which was known, or might have been known, to the whole world. A President can only be elected by a majority of the people of the several States. Throughout the canvass, his opinions and sentiments on every leading measure of public policy, are known and discussed. The last election was an exception to this rule; but another like it will never again occur in our day. If, under such circumstances, an act should pass Congress, notoriously in violation of some principle of vital importance, which was decided by the people at his election, the President would be faithless to the duty which he owed both to them and to himself, if he did not disapprove the measure. Any person might then declare, in advance, that the President would veto such a bill. Let me imagine one or two cases which may readily occur. Is it not known from one end of the Union to the other, and even in every log cabin throughout its extent, that the Senator from Missouri [Mr. BENTON] has an unconquerable antipathy to a paper currency, and an equally unconquerable predilection for hard money? Now, if he should be a candidate for the Presidency,—and much more unlikely events have happened than that he should be a successful candidate—would not his election be conclusive evidence that the people were in favor of gold and silver, and against paper? Under such circumstances, what else could Congress anticipate whilst concocting an old fashioned Bank of the United States, but that he would instantly veto the bill on the day it was presented to him, without even taking time to sit down in his Presidential chair? (Great laughter, in which Mr. BENTON and Mr. CLAY both joined heartily.) Let me present a reverse case. Suppose the distinguished Senator from Kentucky should be elected President, would he hesitate, or, with his opinions, ought he to hesitate, a moment in vetoing an Independent Treasury bill, should Congress present him such a measure? And if I, as a member of the Senate, were to assert, in the first case which I have supposed, whilst the bank bill was pending, that it would most certainly be vetoed, to what would this amount? Would it be an attempt to bring Executive influence to bear on Congress? Certainly not. It would only be the mere assertion of a well known fact. Would it prove any thing against the veto power? Certainly not; but directly the reverse. It would prove that it ought to be exercised—that the people had willed, by the Presidential election, that it should be exercised—and that it was one of the very cases which demanded its exercise.

An anticipation of the exercise of the veto power, in cases which had already been decided by the people, ought to exercise a restraining influence over Congress. It should admonish them that they ought not to place themselves in hostile array against the Executive, and thus embarrass the administration of the Government by the adoption of a measure which had been previously condemned by the people. If the measure be right in itself, the people will, at the subsequent elections, reverse their own decision, and then, and not till then,

ought Congress to act. No, sir; when we elect a President, we do it in view of his future course of action, inferred from his known opinions; and we calculate, with great accuracy, what he will and what he will not do. The people have never yet been deceived in relation to this matter, as has been abundantly shown by their approbation of every important veto since the origin of the Government.

This veto power was conferred upon the President to arrest unconstitutional, improvident, and hasty legislation. Its intention (if I may use a word not much according to my taste) was purely conservative. To adopt the language of the Federalist, "it establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of that body," [Congress.] Throughout the whole book, whenever the occasion offers, a feeling of dread is expressed, lest the legislative power might transcend the limits prescribed to it by the Constitution, and ultimately absorb the other powers of the Government. From first to last, this fear is manifested. We ought never to forget that the representatives of the people are not the people themselves. The practical neglect of this distinction has often led to the overthrow of Republican institutions. Eternal vigilance is the price of liberty; and the people should regard with a jealous eye, not only their Executive, but their legislative servants. The representative body, proceeding from the people, and clothed with their confidence, naturally lulls suspicion to sleep; and, when disposed to betray its trust, can execute its purpose almost before their constituents take the alarm.

It must have been well founded apprehensions of such a result which induced Mirabeau to declare, that, without a veto power in the king, who was no more, under the first Constitution of France, than the hereditary chief executive magistrate of a Republic, he would rather live in Constantinople than in Paris. The catastrophe proved his wisdom; but it also proved that the veto was no barrier against the encroachments of the Legislative Assembly; nor would it have saved his own head from the block, had he not died at the most propitious moment for his fame.

I might appeal to many passages in the history of the world to prove that the natural tendency of legislative power has always been to increase itself; and the accumulation of this power has, in many instances, overthrown Republican institutions.

Our system of representative Democracy, Heaven's last and best political gift to man, when perverted from its destined purpose, has become the instrument of the most cruel tyranny which the world has ever witnessed. Thus it is that the best things, when perverted, become the worst. Witness the scenes of anarchy, confusion, and blood, from which humanity and reason equally revolt; which attended the French revolution, during the period of the Legislative Assembly and National Convention. So dreadful were these scenes, all enacted in the name of the people, and by the people's own representatives, that they stand out in bold relief, from all the records of time, and are,

by the universal consent of mankind, denominated "the reign of terror." Under the government of the Committee of Public Safety—a committee of the National Convention—more blood was shed and more atrocities committed, than mankind had ever beheld within the same space of time. And yet all this was done in the name of liberty and equality. And what was the result? All this only paved the way for the usurpation of Napoleon Bonaparte; and the people sought protection in the arms of despotism from the tyranny and corruption of their own representatives. This has ever been the course in which Republics have degenerated into military despotisms. Let these sacred truths be ever kept in mind: that sovereignty belongs to the people alone, and that all their servants should be watched with the eyes of sleepless jealousy. The Legislative Assembly and the National Convention of France had usurped all the powers of the Government. They each, in their turn, constituted the sole representative body of the nation, and no wise checks and barriers were interposed to moderate and restrain their action. The example which they presented has convinced all mankind of the necessity of a Senate in a Republic; and similar reasons ought to convince them of the necessity of such a qualified veto as exists under our Constitution. The people cannot interpose too many barriers against unwise and wicked legislation, provided they do not thereby impair the necessary powers of the Government. I know full well that such scenes as I have just described cannot occur in America; but still we may learn lessons of wisdom from them to guide our own conduct.

Legislative bodies of any considerable number are more liable to sudden and violent excitements than individuals. This we have all often witnessed; and it results from a well known principle of human nature. In the midst of such excitements, nothing is more natural than hasty, rash, and dangerous legislation. Individual responsibility is, also, diminished in proportion to the increase of the number. Each person, constituting but a small fractional part of the whole mass, thinks he can escape responsibility in the midst of the crowd. The restraint of the popular will upon his conduct is thus greatly diminished, and as one of a number he is ready to perform acts which he would not attempt upon his own individual responsibility. In order to check such excesses, the Federalist tells us that this veto power, or reference of the subject to the people, was granted.

Again, sir, highly excited political parties may exist in legislative assemblies, so intent upon grasping or retaining power, that in the struggle they will forget the wishes and the interests of the people. I might cite several examples of this kind in the history of our own legislation; but I merely refer to the odious and unconstitutional alien and sedition laws. Led on by ambitious and eloquent men who have become highly excited in the contest, the triumph of party may become paramount to the good of the country, and unconstitutional and dangerous laws may be the consequence. The veto power is necessary to arrest such encroachments on the rights of the States and of the people.

But worst of all is the system of "log-rolling," so prevalent in Congress and the State Legislatures, which the authors of the Federalist do not

seem to have foreseen. This is not a name, to be sure, for ears polite; yet, though homely, it is so significant of the thing, that I shall be pardoned for its use. Now, sir, this very system of log-rolling in legislative bodies is that which has involved several of the States in debts for internal improvements, which I fear some of them may never be able to pay. In order to carry improvements which were useful and might have been productive, it was necessary to attach to them works of an opposite character. To obtain money to meet these extravagant expenditures, indulgence was granted to the banks at the expense of the people. Indeed it has been a fruitful source of that whole system of ruinous and disastrous measures against which the Democracy have been warring for years. It has produced more distress in the country than can be repaired by industry and economy for many days to come. And yet how rarely has any Executive had the courage to apply the remedy which the veto power presents?

Let us, for a moment, examine the workings of this system. It is the more dangerous, because it presents itself to individual members under the garb of devotion to their constituents. One has a measure of mere local advantage to carry, which ought, if at all, to be accomplished by individual enterprise, and which could not pass if it stood alone. He finds that he cannot accomplish his object, if he relies only upon its merits. He finds that other members have other local objects at heart, none of which would receive the support of a majority if separately considered. These members, then, form a combination sufficiently powerful to carry the whole; and thus twenty measures may be adopted, not one of which separately could have obtained a respectable vote. Thanks to the wisdom and energy of General Jackson, this system of local internal improvements which threatened to extend itself into every neighborhood of the nation, and over-reach the land, was arrested by the veto power. Had not this been done, the General Government might, at the present day, have been in the same stretched condition with the most indebted States.

But this system of "log-rolling" has not been confined to mere local affairs, as the history of the extra session will testify. It was then adopted in regard to important party objects, and was called the "great system of measures of the Whig party." It was openly avowed that the majority must take the system in mass, although it is well known that several of the measures, had they stood alone, would have been rejected in detail. We are all perfectly aware that this was the vital principle of the extra session. By means of "log-rolling" the system was adopted. That the passage of the Distribution bill was the price paid for the Bankrupt bill, was openly avowed on this floor. By what mutual compensations the other measures were carried we are left to infer, and therefore I shall not hazard the expression of any opinion in this place on the subject. The ingredient, which one member could not swallow alone, went down easily as a component part of the healing dose. And what has been the consequence? The extravagant appropriations and enormous expenses of the extra session have beggared the Treasury.

It is to check this system, that the veto power

eye, and seclude himself in the recesses of the Executive mansion!

The Senator has said, and with truth, that no veto of the President has ever been overruled, since the origin of the Government. Not one. Although he introduced this fact for another purpose than that which now induces me to advert to it, yet it is not the less true on that account. Is not this the strongest possible argument to prove that there never yet has been a veto, in violation of the public will?

[Here Mr. CLAY observed that there had been repeated instances of majorities in Congress deciding against vetoes.]

Mr. BUCHANAN resumed. I am now speaking of majorities, not of Congress, but of the people. I shall speak of majorities in Congress presently.

Why, sir, has no veto been ever overruled? Simply because the President has never exercised, and never will exercise this perilous power on any important occasion, unless firmly convinced that he is right, and that he will be sustained by the people. Standing alone, with the whole responsibility of his high official duty passing upon him, he will never brave the enormous power and influence of Congress, unless he feels a moral certainty that the people will come to the rescue. When he ventures to differ from Congress, and appeal to the people, the chances are all against him. The members of the Senate and the House are numerous, and are scattered over the whole country, whilst the President is but an individual confined to the city of Washington. Their personal influence with their constituents is, and must be great. In such a struggle, he must mainly rely upon the palpable justice of his cause. Under these circumstances, does it not speak volumes in favor of the discretion with which the veto power has been exercised, that it has never once been overruled, in a single instance, since the origin of the Government, either by a majority of the people in the several States, or by the constitutional majority in Congress?

It is truly astonishing how rarely this power has ever been exercised. During the period of more than half a century which has elapsed since the meeting of the first Congress under the Constitution, about six thousand legislative acts have been passed. How many of these, sir, do you suppose have been disapproved by the President? Twenty, sir; twenty is the whole number. I speak from a list now in my hand prepared by one of the clerks of the Senate. And this number embraces not merely those bills which have been actually vetoed; but all such as were retained by him under the Constitution, in consequence of having been presented at so late a period of the session that he could not prepare his objections previous to the adjournment. Twenty is the sum total of all!

Let us analyze these vetoes, (for I shall call them all by that name,) for a few moments. Of the twenty, eight were on bills of small comparative importance, and excited no public attention. Congress at once yielded to the President's objections, and in one remarkable instance, a veto of General Jackson was laid upon the table on the motion of the Senator from Kentucky himself. No attempt

was even made to pass the bill in opposition to this veto, and no one Senator contested its propriety. Eleven of the twelve remaining vetoes upon this list, relate to only three subjects. These are, a Bank of the United States; internal improvements in different forms; and the distribution of the proceeds of the public lands among the several States. There have been four vetoes of a Bank of the United States; one by Mr. Madison, one by General Jackson, and two by Mr. Tyler. There have been six vetoes on internal improvements, in different forms; one by Mr. Madison, one by Mr. Monroe, and four by General Jackson. And General Jackson vetoed the bill to distribute the proceeds of the sales of the public lands among the several States. These make the eleven.

The remaining veto was by General Washington; and it is remarkable that it should be the most questionable exercise of this power which has ever occurred. I refer to his second and last veto, on the first of March, 1797, and but three days before he retired from office, on the "Act to alter and amend an act, entitled an act to ascertain and fix the military establishment of the United States." In his instance, there was a majority of nearly two-thirds in the House of Representatives, where it originated, in favor of passing the act, notwithstanding the objections of the Father of his Country. The vote was fifty-five in the affirmative to thirty-six in the negative. This act provided for the reduction of the military establishment of the country; and the day will probably never again arrive when any President will venture to veto an act reducing the standing army of the United States.

Then in the range of time since the year 1789, there have been but twenty vetoes; and eleven of these related to only three subjects which have radically divided the two great political parties of the country. With the exception of twenty, all the acts which have ever passed Congress, have been allowed to take their course without any Executive interference.

That this power has never been abused, is as clear as the light of the sun. I ask Senators, and I appeal to you, sir, whether the American people have not sanctioned every one of the vetoes on the three great subjects to which I have referred. Yes, sir, every one, not excepting those on the Fiscal Bank and Fiscal Corporation—the leading measures of the extra session. Notwithstanding the solemn denunciation against the President, made by the Whig party, and their appeal to the people, there has been no election held since that session in which the people have not declared, in a voice of thunder, their approbation of the two vetoes of President Tyler. I shall not, upon the present occasion, discuss the question whether all or any of these vetoes were right or wrong. I merely state the incontrovertible fact that they have all been approved by the American people.

The character of the bills vetoed shows conclusively the striking contrast between the veto power when entrusted to an elective and responsible Chief Magistrate, and when conferred upon a European sovereign as a royal prerogative. All the vetoes which an American President has imposed on any important act of Congress, except the one

by General Washington, to which I have alluded, have been so many instances of self-denial. These acts have all been returned, accompanied by messages remonstrating against the extension of Executive power, which they proposed to grant. Exerting the influence which these acts proposed to confer upon him, the President might, indeed, have made long strides towards the attainment of monarchical power. Had a National Bank been established under his control, uniting the moneyed with the political power of the country;—had a splendid system of internal improvements been adopted and placed under his direction, presenting prospects of pecuniary advantage to almost every individual throughout the land; and in addition to all this, had the States become pensioners on the bounty of the Federal Government for the amount of the proceeds of the sales of the public lands, we might soon have witnessed a powerful consolidated Government, with a chief at its head far different from the plain and unpretending President recognised by the Constitution. The General Government might then have become every thing, whilst the State Governments would have sunk to nothing. Thanks to the vetoes of our Presidents, and not to Congress, that most of these evils have been averted. Had these acts been all approved by the President, it is my firm conviction that the Senator himself would as deeply have deplored the consequences as any other true patriot, and that he would forever have regretted his own agency in substantially changing the form of our Government. Had these bills become laws, the Executive power would then have strode over all the other powers of the Constitution; and then, indeed, the Senator might have justly compared the President of the United States with the monarchs of Europe. Our Presidents have had the self-denying firmness to render all these attempts abortive, to bestow on themselves extraordinary powers, and have been content to confine themselves to those powers conferred on them by the Constitution. They have protected the rights of the States and of the people from the unconstitutional means of influence which Congress had placed within their grasp. Such have been the consequences of the veto power in the hands of our elective chief magistrates.

For what purposes has this power been exerted by European monarchs with whom our President has been compared? When exercised at all, it has always been for the purpose of maintaining the royal prerogative and arresting the march of popular liberty. There have been but two instances of its exercise in England since the Revolution of 1688. The first was in 1692, by William the Third, the rival of Louis the Fourteenth, and beyond question the ablest man who has sat upon the throne of Great Britain for the last century and a half. He had the hardihood to veto the Earl of Shrewsbury's bill, which had passed both Houses, limiting the duration of Parliaments to three, instead of seven years, and requiring annual sessions to be held. He dreaded the influence which members of the House of Commons, responsible to their constituents at the end of each period of three years, might exert against his royal power and prerogatives; and,

therefore, held on by means of the veto to septennial Parliaments. And what did George the Third do? In 1806, he vetoed the Catholic Emancipation bill, and thus continued to hold in political bondage millions of his fellow men, because they insisted upon worshipping their God according to the dictates of their own conscience.

[Here Mr. CLAY observed that this was a mistake, and expressed his belief that upon the occasion alluded to, the matter had gone no further than the resignation of the Grenville administration.]

Mr. BUCHANAN. I shall then read my authority. It is to be found in "Random Recollections of the House of Lords, by Mr. Grant," page 25. The author says:

"But if the King refuse his signature to it [a bill] as George the Third did in the case of the Catholic Emancipation bill, of 1806, it necessarily falls to the ground. The way in which the King intimates his determination not to give his assent to the measure, is not by a positive refusal in so many words; he simply observes, in answer to the application made to him for that purpose, 'Le Roi s'avisera,' namely, 'The King will consider of it,' which is understood to be a final determination not to sanction the measure."

But, sir, be this author correct or incorrect, as to the existence of a veto in 1806, it is a matter of trifling importance in the present argument. I admit that the exercise of the veto power has fallen into disuse in England since the revolution. And what are the reasons? First, because its exercise by a hereditary sovereign to preserve unimpaired the prerogatives of the crown against the voice of the people, is always an odious exertion of the royal prerogative. It is far different from its exercise by an elective magistrate, acting in the character of a tribune of the people, to preserve their rights and liberties unimpaired. And secondly, because this veto power is no longer necessary to secure the prerogatives of the crown against the assaults of popular liberty.

Two centuries ago, the people of England asserted their rights by the sword against their sovereign. They dethroned and beheaded him. Since that time, the Kings of England have changed their course. They have discovered from experience that it was much easier to govern Parliament by means of the patronage and money at the command of the crown, than openly to resist it by the veto power. This system has succeeded admirably. Influence has taken the place of prerogative; and so were the days of Napoleon, when the votes of members were purchased almost without disguise, corruption has nearly destroyed the independent action of Parliament. It has now descended into the ranks of the people and threatens destruction to the institutions of that country. In the recent contest for power between the Whigs and the Tories, the bargain and sale of the votes of the electors was

Mr. BUCHANAN cannot discover, after careful examination, that any Catholic Emancipation Bill was vetoed by George the Third in 1806, according to the statement of Mr. Grant. That gentleman, most probably, intended to refer to the bill for this purpose which was introduced by the Grenville ministry, in March, 1807, under the impression that they had obtained for it the approbation of his Majesty. Upon its second reading, notice was given of his displeasure. The ministry then agreed to drop the bill altogether; but, notwithstanding this concession, they were changed, because they would not give a written pledge to the king, that they should propose no farther concessions to the Catholics thereafter. This was an exertion of the royal prerogative beyond the veto power.

open and notorious. The bribery and corruption of both parties sought no disguise. In many places the price of a vote was fixed, like any other commodity in the market. These things have been proclaimed without contradiction on the floor of Parliament. The Tories had the most money to expend; and the cause of dear bread, with a starving population, prevailed over the modification or repeal of the corn laws. In a country so venal, it is easy for the crown, by a politic distribution of its honors, offices, and emoluments, and if these should all fail, by a direct application of money, to preserve its prerogatives without the use of the veto power.

Besides, the principal ministers of the crown are always members of the House of Lords or the House of Commons. It is they who originate the important laws; and they, and they alone, are responsible, because it is a maxim of the British Government, that the King can do no wrong. If they cannot maintain a majority in Parliament by the use of the patronage and influence of the crown, they must yield their places to their successful rivals; and the King, without the least hesitation, will receive as his confidential advisers to-morrow, the very men whose principles he had condemned but yesterday. Such is a King of England. He can do no wrong.

On one memorable occasion, when the ministers of the crown themselves—I refer to the coalition administration of Mr. Fox and Lord North—had passed their East India Bill through the House of Commons, it was defeated in the House of Lords by the direct personal influence of the sovereign. George the Third, it is known, would have vetoed that bill, had it passed the House of Lords; and well he might. It was an attempt by his own ministers to obtain possession of the wealth and the power of India, and to use them for the purpose of controlling both the sovereign and the people of England. This was not the common case of a mere struggle between opposite parties as to which should administer the Government, about which the sovereign of England might be perfectly indifferent; but it was an attempt to deprive the crown of its power and prerogatives.

Under such circumstances, can the Senator seriously contend that, because the veto power has been disused by the kings of England, therefore, it ought to be taken from the President of the United States? The King is a hereditary sovereign—the President an elective magistrate. The King is not responsible to the people for the administration of the Executive Government—the President is alone responsible. The King could feel no interest in using the veto power, except to maintain the prerogatives of the crown; and it has been shown to be wholly unnecessary for this purpose; whilst the President has never exerted it on any important occasion, but in obedience to the public will, and then only for the purpose of preventing encroachments by Congress on the Constitution of the country, on the rights of the States, and on the liberties of the people.

The Senator is mistaken in supposing that the veto power has never been exercised in France. It is true, I believe, that it has never been exerted by the Government of Louis Philippe; but his Govern-

ment is as yet nothing but a mere experiment. It has now existed less than twelve years, and during this short period there have been nineteen different cabinets. I saw a list of them a few days ago, in one of the public journals. To cite the example of such a Government as authority here, is to prove that a Senator is hard run for arguments. The unfortunate Louis the Sixteenth, used the suspensive veto power conferred upon him by the first French Constitution, upon more than one occasion; but he used it not to enforce the will of the people as our Presidents have done, but against public opinion, which was at that time omnipotent in France. These vetoes proved but a feeble barrier against the tremendous torrent of the Revolution, which was at that time overwhelming all the corrupt and tyrannical institutions of the ancient monarchy.

The Senator has referred to the Declaration of Independence, to show that the exercise of this veto power by the King on the acts of the colonial Legislatures was one of the causes of the Revolution. In that instrument he is charged with having "refused his assent to laws the most wholesome and necessary for the public good." In those days a *douceur* was presented, in Pennsylvania, to the Proprietary Governor, with every act of Assembly in which the people felt a deep interest. I state this fact on the authority of Dr. Franklin. After the act was approved by the Governor, it had then to be sent three thousand miles across the Atlantic for the approbation of a hereditary sovereign, in no manner responsible to the people of this country. It would have been strange, indeed, had not this power been abused under such circumstances. This was like the veto of Augustus after he had usurped the liberties of the Roman people, and made himself sole tribune—not like that of the tribunes annually elected by the Roman people. This was not the veto of James Madison, Andrew Jackson, or John Tyler—not the veto of a free-man, responsible to his fellow-freemen for the faithful and honest exercise of his important trust. This power is either democratic or arbitrary, as the authority exercising it may be dependent on the people or independent of them.

But, sir, this veto power, which I humbly apprehend to be useful in every State Government, becomes absolutely necessary under the peculiar and complex form of the Federal Government. To this point I desire especially to direct the attention of the Senate. The Federal Constitution was a work of mutual compromise and concession; and the States which became parties to it, must take the evil with the good. A majority of the people within each of the several States have the inherent right to change, modify, and amend their Constitution at pleasure. Not so with respect to the Federal Constitution. In regard to it, a majority of the people of the United States can exercise no such power. And why? Simply because they have solemnly surrendered it, in consideration of obtaining by this surrender all the blessings and benefits of our glorious Union. It requires two-thirds of the representatives of the States in the Senate, and two-thirds of the Representatives of the people in the House, even to propose an amendment to the Constitution; and this must be ratified by three-fourths of the

States before it can take effect. Even if twenty-five of the twenty-six States of which the Union is composed should determine to deprive "little Delaware" of her equal representation in the Senate, she could defy them all, whilst this Constitution shall endure. It declares that "no State, without its consent, shall be deprived of its equal suffrage in the Senate."

As the Constitution could not have been adopted except by a majority of the people in every State of the Union, the members of the convention believed that it would be reasonable and just to require that three-fourths of the States should concur in changing that which *all* had adopted, and to which *all* had become parties. To give it a binding force upon the conscience of every public functionary, each Senator and Representative, whether in Congress or the several State Legislatures, and every executive and judicial officer, whether State or Federal, is bound solemnly to swear or affirm that he will support the Constitution.

Now, sir, it has been said, and said truly by the Senator, that the will of the majority ought to prevail. This is an axiom in the science of liberty which nobody will at the present day dispute. Under the Federal Constitution, this will must be declared in the manner which it has prescribed; and sooner or later, the majority must and will be obeyed in the enactment of laws. But what is this majority to which we are all bound to yield? Is it the majority of Senators and Representatives in Congress, or a majority of the people themselves? The fallacy of the Senator's argument, from beginning to end, consists in the assumption that Congress, in every situation and under every circumstance, truly represent the deliberate will of the people. The framers of the Constitution believed it might be otherwise; and therefore they imposed the restriction of the qualified veto of the President upon the legislative action of Congress.

What is the most glorious and useful invention of modern times in the science of free Government? Undoubtedly, written Constitutions. For want of these, the ancient Republics were scenes of turbulence, violence and disorder, and ended in self-destruction. And what are all our constitutions, but restraints imposed, not by arbitrary authority, but by the people upon themselves and their own Representatives? Such throughout is the character of the Federal Constitution. And it is this Constitution, thus restricted, which has so long secured our liberty and prosperity, and has endeared itself to the heart of every good citizen.

This system of self-imposed restraints is a necessary element of our social condition. Every wise and virtuous man adopts resolutions by which he regulates his conduct, for the purpose of counteracting the evil propensities of his nature, and preventing him from yielding under the impulses of sudden and strong temptation. Is such a man the less free—the less independent, because he chooses to submit to these self-imposed restraints? In like manner, is the majority of the people less free and less independent, because it has chosen to impose constitutional restrictions upon itself and its Representatives? Is this any abridgement of popular liberty? The true philosophy of Republican Government, as the history of the world has de-

monstrated, consists in the establishment of such counteracting powers,—powers always created by the people themselves,—as shall render it morally certain that no law can be passed by their servants which shall not be in accordance with their will, and calculated to promote their good.

It is for this reason that a Senate has been established in every State of the Union to control the House of Representatives: and I presume there is now scarcely an individual in the country who is not convinced of its necessity. Fifty years ago, opinions were much divided upon this subject, and nothing but experience has settled the question. In France, the National Assembly, although they retained the King, rejected a Senate as aristocratic, and our own Franklin was opposed to it. He thought that the popular branch was alone necessary to reflect the will of the people, and that a Senate would be but a mere incumbrance. His influence prevailed in the Convention which framed the first Constitution for Pennsylvania, and we had no Senate. The Doctor's argument against it was contained in one of his homely but striking illustrations. Why, said he, will you place a horse in front of a cart to draw it forward, and another behind to pull it back? Experience, which is the wisest teacher, has demonstrated the fallacy of this and all other similar arguments, and public opinion is now unanimous on the subject. Where is the man who does not now feel that the control of a Senate is necessary to restrain and modify the action of the popular branch?

And how is our own Senate composed? One-fourth of the people of this Union, through the agency of the State Legislatures, can send a majority into this chamber. A bill may pass the House of Representatives by a unanimous vote, and yet be defeated here by a majority of Senators representing but one-fourth of the people of the United States. Why does not the Senator from Kentucky propose to abolish the Senate? His argument would be much stronger against its existence than against that of the veto power in the hands of a Chief Magistrate, who, in this particular, is the true representative of the majority of the whole people.

All the beauty and harmony and order of the universe arise from counteracting influences. When its great Author, in the beginning, gave the planets their projectile impulse, they would have rushed in a straight line through the realms of boundless space, had he not restrained them within their precribed orbits by the counteracting influence of gravitation. All the valuable inventions in mechanics consist in blending simple powers together so as to restrain and regulate the action of each other. Restraint—restraint—not that imposed by arbitrary and irresponsible power, but by the people themselves, in their own written constitutions, is the great law which has rendered Democratic Representative Government so successful in these latter times. The best security which the people can have against abuses of trust by their public servants, is to ordain that it shall be the duty of one class of them to watch and restrain another. Sir, this Federal Government, in its legislative attributes, is nothing but a system of restraints from beginning to end. In order to enact any bill into a law,

it must be passed by the representatives of the people in the House, and also by the representatives of the sovereign States in the Senate, where, as I have observed before, it may be defeated by Senators from States containing but one-fourth of the population of the country. After it has undergone these two ordeals, it must yet be subjected to that of the Executive, as the tribune of the whole people, for his approbation. If he should exercise his veto power, it cannot become a law unless it be passed by a majority of two-thirds of both Houses. These are the mutual restraints which the people have imposed on their public servant, to preserve their own rights and those of the States from rash, hasty, and impolitic legislation. No treaty with a foreign power can be binding upon the people of this country unless it shall receive the assent of the President and two-thirds of the Senate; and this is the restraint which the people have imposed on the treaty-making power.

All these restraints are peculiarly necessary to protect the rights and preserve the harmony of the different States which compose our Union. It now consists of twenty-six distinct and independent States, and this number may yet be considerably increased. These States differ essentially from each other in their domestic institutions, in the character of their population, and even, to some extent, in their language. They embrace every variety of soil, climate, and productions. In an enlarged view, I believe their interests to be all identical; although, to the eye of local and sectional prejudice, they always appear to be conflicting. In such a condition, mutual jealousies must arise, which can only be repressed by that mutual forbearance which pervades the Constitution. To legislate wisely for such a people is a task of extreme delicacy, and requires much self-restraining prudence and caution. In this point of view, I firmly believe that the veto power is one of the best safeguards of the Union. By this power the majority of the people in every State have decreed that the existing laws shall remain unchanged, unless not only a majority in each House of Congress, but the President also, shall sanction the change. By these wise and wholesome restrictions, they have secured themselves, so far as human prudence can, against hasty, oppressive, and dangerous legislation.

The rights of the weaker portions of the Union will find one of their greatest securities in the veto power. It would be easy to imagine interests of the deepest importance, to particular sections which might be seriously endangered by its destruction. For example, not more than one-third of the States have any direct interest in the coasting trade. This trade is now secured to American vessels, not merely by a protective duty, but by an absolute prohibition of all foreign competition. Suppose the advocates of free trade run mad should excite the jealousy of the Senators and Representatives from the other two-thirds of the States, against this comparatively local interest, and convince them that this trade ought to be thrown open to foreign navigation. By such a competition, they might contend that the price of freight would be reduced, and that the producers of cotton, wheat, and other articles, ought

not to be taxed in order to sustain such a monopoly in favor of our own ship building and navigating interest. Should Congress, influenced by these or any other considerations, ever pass an act to open this trade to the competition of foreigners, there is no man fit to fill the Executive chair who would not place his veto upon it, and thus refer the subject to the sober determination of the American people. To deprive the navigating States of this privilege, would be to aim a deadly blow at the very existence of the Union.

Let me suppose another case of a much more dangerous character. In the Southern States, which compose the weaker portion of the Union, a species of property exists which is now attracting the attention of the whole civilized world. These States never would have become parties to the Union, had not their rights in this property been secured by the Federal Constitution. Foreign and domestic fanatics—some from the belief that they are doing God's service, and others from a desire to divide and destroy this glorious Republic—have conspired to emancipate the Southern slaves. On this question, the people of the South, beyond the limits of their own States, stand alone and unsupported by any power on earth, except that of the Northern Democracy. These fanatical philanthropists are now conducting a crusade over the whole world, and are endeavoring to concentrate the public opinion of all mankind against this right of property. Suppose they should ever influence a majority in both Houses of Congress to pass a law, not to abolish this property—or that would be too palpable a violation of the Constitution—but to render it of no value, under the pretext, but against the spirit of some one of the powers granted: will any lover of his country say that the President ought not to possess the power of arresting such an act by his veto, until the solemn decision of the people should be known on this question, involving the life or death of the Union? We, sir, of the non-slaveholding States, entered the Union upon the express condition that this property should be protected. Will we may be our own private opinions in regard to slavery in the abstract, ought we to hazard all the blessings of our free institutions—our Union and our strength—in such a crusade against our brethren of the South? Ought we to jeopard every political right we hold dear for the sake of enabling these fanatics to invade Southern rights, and render that fair portion of our common inheritance a scene of servile war, rapine and murder? Shall we apply the torch to the magnificent temple of human liberty which our forefathers reared at the price of their blood and treasure, and permit all we hold dear to perish in the conflagration? I trust not.

It is possible that at some future day the majority in Congress may attempt, by indirect means, to emancipate the slaves of the South. There is no knowing through what channel the ever active spirit of fanaticism may seek to accomplish its object. The attempt may be made through the taxing power, or some other express power granted by the Constitution. God only knows how it may be made. It is hard to say what means fanaticism may not adopt to accomplish its purpose. Do we feel so

secure, in this hour of peril from abroad and peril at home, as to be willing to prostrate any of the barriers which the Constitution has reared against hasty and dangerous legislation? No, sir, never was the value of the veto power more manifest than at the present moment. For the weaker portion of the Union, whose constitutional rights are now assailed with such violence, to think of abandoning this safeguard, would be almost suicidal. It is my solemn conviction, that there never was a wiser or more beautiful adaptation of theory to practice in any Government than that which requires a majority of two-thirds in both Houses of Congress to pass an act returned by the President with his objections, under all the high responsibilities which he owes to his country.

Sir, ours is a glorious Constitution. Let us venerate it—let us stand by it as the work of great and good men, unsurpassed in the history of any age or nation. Let us not assail it rashly with our invading hands, but honor it as the fountain of our prosperity and power. Let us protect it as the only system of Government which could have rendered us what we are in half a century, and enabled us to take the front rank among the nations of the earth. In my opinion, it is the only form of Government which can preserve the blessings of liberty and prosperity to the people, and at the same time secure the rights and sovereignty of the States. Sir, the great mass of the people are unwilling that it shall be changed. Although the Senator from Kentucky, to whom I cannot and do not attribute any but patriotic motives, has brought himself to believe that a change is necessary, especially in the veto power, I must differ from him entirely, convinced that his opinions on this subject are based upon fallacious theories of the nature of our institutions. This view of his opinions is strengthened by his declarations the other day as to the inalienable rights of the majority in Congress. On this point he differs essentially from the framers of the Constitution. They believed that the people of the different States had rights which might be violated by such a majority; and the veto power was one of the modes which they devised for preventing these rights from being invaded.

The Senator, in support of his objections to the veto power, has used what he denominates a numerical argument, and asks, can it be supposed that any President will possess more wisdom than nine Senators and forty Representatives. (This is the number more than a bare majority of each body which would at present be required to pass a bill by a majority of two thirds.) To this question, my answer is, no, it is not to be so supposed at all. All that we have to suppose is, what our ancestors, in their acknowledged wisdom, did suppose; that Senators and Representatives are but mortal men, endowed with mortal passions and subject to mortal infirmities; that they are susceptible of selfish and unwise impulses, and that they do not always, and under all circumstances, truly reflect the will of their constituents. These founders of our Government, therefore, supposed the possibility that Congress might pass an act through the influence of unwise or improper motives; and that the best mode of saving the country from the evil effects of such legislation was to place a qualified veto in the

hands of the people's own representative, the President of the United States, by means of which, unless two-thirds of each House of Congress should re-pass the bill, the question must be brought directly before the people themselves. These wise men had made the President so dependent on Congress that they knew he would never abuse this power, nor exert it unless from the highest and most solemn convictions of duty; and experience has established their wisdom and foresight.

As to the Senator's numerical argument, I might as well ask him, is it to be supposed that we are so superior in wisdom to the members of the House that the vote of one Senator ought to annul the votes of thirty-two Representatives? And yet the bill to repeal the Bankrupt law has just been defeated in this body by a majority of one, although it had passed the House by a majority of thirty-two. The Senator's numerical argument, if it be good for any thing at all, would be good for the abolition of the Senate as well as of the veto; and would lead at once to the investment of all the powers of legislation in the popular branch alone. But experience has long exploded this theory throughout the world. The framers of the Constitution, in consummate wisdom, thought proper to impose checks, and balances, and restrictions on their Governmental agents; and wo betide us, if the day should ever arrive when they shall be removed.

But I must admit that another of the Senator's arguments is perhaps not quite so easily refuted, though, I think, it is not very difficult to demonstrate its fallacy. It is undoubtedly his strongest position. He says that the tendency of the veto power is to draw after it all the powers of legislation; and that Congress, in passing laws, will be compelled to consult, not the good of the country alone, but to ascertain, in the first instance, what the President will approve, and then regulate their conduct according to his predetermined will.

This argument presupposes the existence of two facts, which must be established before it can have the least force. First, that the President would depart from his proper sphere, and attempt to influence the initiatory legislation of Congress; and, second, that Congress would be so subservient as to originate and pass laws, not according to the dictates of their own judgment, but in obedience to his expressed wishes. Now, sir, does not the Senator perceive that his argument proves too much? Would not the President have precisely the same influence over Congress, so far as his patronage extends, as if the veto had never existed at all? He would then resemble the King of England, whose veto power has been almost abandoned for the last hundred and fifty years. If the President's power and patronage were coextensive with that of the King, he could exercise an influence over Congress similar to that which is now exerted over the British Parliament, and might control legislation in the same manner.

Thus, sir, you perceive that to deprive the President of the veto power, would afford no remedy against Executive influence in Congress, if the President were disposed to exert it. Nay, more—it would encourage him to interfere secretly with our legislative functions, because, deprived of the veto power, his only resource would be to intrigue

with members of Congress for the purpose of preventing the passage of measures which he might disapprove. At present this power enables him to act openly and boldly, and to state his reasons to the country for refusing his assent to any act passed by Congress.

Again: does not the Senator perceive that this argument is a direct attack upon the character of Congress? Does he not feel that the whole weight of his argument in favor of abolishing the veto power, rests upon the wisdom, integrity, and independence of that body? And yet we are told that in order to prevent the application of the veto, we shall become so sub-servient to the Executive, that in the passage of laws we will consult his wishes rather than our own independent judgment. The venality and baseness of Congress are the only foundations on which such an argument can rest; and yet it is the presumption of their integrity and wisdom on which the Senator relies for the purpose of proving that the veto power is wholly unnecessary, and ought to be abolished.

In regard to this thing of Executive influence over Congress, I have a few words to say. Sir, I have been an attentive observer of Congressional proceedings for the last twenty years, and have watched its operations with an observing eye. I shall not pretend to say that it does not exist to some extent; but its power has been greatly overrated. It can never become dangerous to liberty, unless the patronage of the Government should be enormously increased by the passage of such unconstitutional and encroaching laws as have hitherto fallen under the blow of the veto power.

The Executive, indeed, will always have personal friends, as well as ardent political supporters of his administration in Congress, who will strongly incline to view his measures with a favorable eye. He will, also, have, both in and out of Congress, expectants who look to him for a share of the patronage at his disposal. But, after all, to what does this amount?

Whilst the canvass is proceeding previous to his election, the expectations of candidates for office will array around him a host of ardent and active friends. But what is his condition after the election has passed, and the patronage has been distributed? Let me appeal to the scene which we all witnessed in this city, at and after the inauguration of the lamented President. It is almost impossible that one office seeker in fifty could have been gratified. What is the natural and necessary result of such numerous disappointments? It is to irritate the feelings and sour the minds of the unsuccessful applicants. They make comparisons between themselves and those who have been successful, and self love always exaggerates their own merits and depreciates those of their successful rivals, to such an extent, that they believe themselves to have been injured. The President thus often makes one inactive friend, because he feels himself secure in office, and twenty secret enemies awaiting the opportunity to give him a stab whenever a favorable occasion may offer. The Senator greatly overrates the power of Executive influence either among the people or in Congress. By the time the offices have been all distributed, which is usually done between the inauguration

and the first regular meeting of Congress thereafter, the President has but few boons to offer.

Again: it is always an odious exercise of Executive power to confer offices on members Congress, unless under peculiar circumstances, where the office seeks the man rather than the man the office. In point of fact, but few members can receive appointments; and those soliciting them are always detected by their conduct. They are immediately noted for their subserviency; and from that moment, their influence with their fellow members is gone.

By far the greatest influence which a President can acquire over Congress, is a reflected influence from the people upon their Representatives. This is dependent upon the personal popularity of the President, and can never be powerful, unless, from the force of his character, and the value of his past services, he has inspired the people with an enthusiastic attachment. A remarkable example of this reflected influence was presented in the case of General Jackson; and yet it is a high compliment to the independence, if not to the wisdom of Congress, that even he could rarely command a majority in both its branches. Still it is certain, notwithstanding, that he presented a most striking example of a powerful Executive; and this chiefly because he was deservedly strong in the affections of the people.

In the vicissitude of human events, we shall sometimes have Presidents who can, if they please, exercise too much, and those who possess too little influence over Congress. If we witnessed the one extreme during General Jackson's administration, we now have the other before our eyes. For the sake of the contrast, and without the slightest disrespect towards the worthy and amiable individual who now occupies the Presidential chair, I would say that if General Jackson presented an example of the strength, the present President presents an equally striking example of the feebleness, of Executive influence. Ask what has all the patronage of his high office done for him? How many friends has it secured? I most sincerely wish, for the good of the country, and for the success of his administration, that he had a much greater degree of influence in Congress than he possesses. It is for this reason that I was glad to observe, a few days ago, some symptoms of turning favor on this (the *Whig*) side of the house towards John Tyler. It is better, much better, even thus late, that they should come toward and extend to him a helping hand, than wishing to do so, still keep at a distance merely to preserve an appearance of consistency. I am sorry to see that from this mere affection, they should appear so coy, and leave the country to suffer all the embarrassments which result from a weak Administration. [Here several of the *Whig* Senators asked jocosely why the Democrats did not volunteer theirseives to strengthen the Government.] Oh! said Mr. B. we cannot do that. What is merely an apparent inconsistency in the *Whigs*, would be a real inconsistency in us. We cannot go for the *Whig* measures which were approved by President Tyler at the extra session. We cannot support the great Government Exchequer Bank of discount and exchange, with its three for-one paper currency. 1

think, however, with all deference, that my Whig friends on this side of the House ought not to be squeamish on that subject. I think my friend from Georgia [Mr. BERRIEN] ought to go hand and hand for the Exchange Bank. It is in substance his own scheme of a "Fiscal Corporation," transferred into the Treasury of the United States, and divested of private stockholders. Let me assure gentlemen that their character for consistency will not suffer by supporting this measure.

And yet, with the example of this Administration before their eyes, the Whigs dread Executive influence so much that they wish to abolish the veto power, lest the President may be able to draw within its vortex all the legislative powers of Congress! What a world we live in!

This authentic history is the best answer to another position of the Senator. What he believes that there have been no encroachments of the General Government on the rights of the States, but on the contrary that it is fast bringing into the weakness and imbecility of the Confederation; he complains of the encroachments which he alleges to have been made by the President on the legitimate powers of Congress. I differ from him entirely in both these propositions, and am only sorry that the subject of the veto power is one so vast that time will not permit me to discuss them at present. This I shall, however, say, that the strong tendency of the Federal Government has, in my opinion, ever been to encroach upon the rights of the States and their people; and I might appeal to its history to establish the position. Every violent struggle, threatening the existence of the Union, which has existed in this country from the beginning, has arisen from the exercise of constructive and doubtful powers, not by the President, but by Congress. But enough of that for the present.

The Senator from Kentucky contends, that whether the Executive be strong or weak, Congress must conform its action to his wishes; and if they cannot obtain what they desire, they must take what they can get. Such a principle of action is always wrong in itself, and must always lead to the destruction of the party which adopts it. This was the fatal error of the Senator and his friends at the extra session. He has informed us that neither "the Fiscal Bank" nor "the Fiscal Corporation" of that never to be forgotten session would have received twenty votes in either House, had the minds of members been left uninfluenced by the expected action of the Executive. This was the most severe censure which he could have passed on his party in Congress. It is now admitted that the Whig party earnestly advocated and adopted two most important measures, not because they approved them in the form in which they were presented, but for the sake of conciliating Mr. Tyler. Never was there a more striking example of retributive justice than the veto of both these measures. Whether it be the fact, as the Senator alleges, that the Whigs in Congress took the Fiscal Corporation bill, letter for letter, as it came from the President to them, I shall not pretend to decide. It is not for me to compose such strifes. I leave this to their own file leaders. Without entering upon this question, I shall never fail, when a fit opportunity offers, to express the gratitude which

I feel, in common with the whole country, to the President for having vetoed those bills which it now appears never received the approbation of any person. It does astonish me, however, that this proceeding between the President and his party in Congress should ever have been made an argument in favor of abolishing the veto power.

This argument, if it prove any thing at all, sets the verdict of condemnation to the measures of the late extra session, and to the extra session itself. It is a demonstration of the hasty, inconsiderate and immature legislation of that session. In the flush of party triumph, the Whigs rushed into it, before passion had time to cool down into that calm deliberation, so essential to the wise and harmonious co-operation of the different branches of the Government. They took so little time to consult and deliberate, to reconcile their conflicting opinions and interests, and above all to a certain and fix their real political principles, which they had so sedulously concealed from the public eye throughout the contest, that none but those who were heated and exalted beyond the bounds of reason ever anticipated any result but division, discord and defeat, from the extra session. The party first pursued a course which must have inevitably led to the defeat which they have experienced; and would then revenge themselves for their own misconduct by assailing the veto power.

The lesson which we have received will teach Congress hereafter not to sacrifice its independence by consulting the Executive will. Let them honestly and firmly pass such acts as they believe the public good requires. They will then have done their duty. Afterwards let the Executive exercise the same honesty and firmness in approving these acts. If he vetoes any one of them, he is responsible to the people, and there he ought to be left.

Had this course been pursued at the extra session, Congress would have passed an act to establish an undischarged Bank of the United States, which would have been vetoed by the President. A majority would thus have been made for the decision of their common constituents. There would then have been no necessity for my friends on this side of the House to submit to the humiliation of justifying themselves before the people, on the principle that they were willing to accept something which they knew to be very bad, because they could not obtain that which they thought the public good demanded.

This whole proceeding, sir, presents no argument against the veto power; although it does present, in a striking light, the subserviency of the Whig party in Congress to Executive dictation. We may, indeed, if insensible to our own rights and independence, give an undue influence to the veto power; but we shall never produce this effect if we confine ourselves to our own appropriate duties, and leave the Executive to perform his. This example will never, I think, be imitated by any party in the country, and we shall then never again be tempted to make war on the veto power.

To show that this power ought to be abolished, the Senator has referred to intimations given on this floor, during the administration of General Jackson, that such and such acts then pending would be vetoed, if passed. Such intimations may

can be most usefully and properly applied. The President of the United States stands "solitary and alone," in his responsibility to the people. In the exercise of this power, he is emphatically the representative of the whole people. He has the same feeling of responsibility towards the people at large, which actuates us towards our immediate constituents. To him the mass of the people must look as their especial agent; and human ingenuity cannot devise a better mode of giving them the necessary control than by enabling him to appeal to themselves in such cases, by means of the veto power; for the purpose of ascertaining whether they will sanction the acts of their Representatives. He can bring each of those measures distinctly before the people for their separate consideration, which may have been adopted by log-rolling as parts of a great system.

The veto power has long been in existence in Pennsylvania, and has been often exercised, and yet, to my knowledge, it never has been exerted in any important case, except in obedience to the public will, or in promotion of the interests of the people. Simon Snyder, whose far-seeing sagacity detected the evils of our present banking system, whilst they were yet comparatively in embryo, has rendered himself immortal by his veto of the forty banks. The system, however, was only arrested, not destroyed, and we are now suffering the evils. The present Governor has had the wisdom and courage repeatedly to exercise the veto power, and always, I believe, with public approbation. In a late signal instance, his veto was overruled, and the law passed by a majority of two-thirds in both Houses, although I am convinced that at least three-fourths of the people of the State are opposed to the measure.

In the State of Pennsylvania, we regard the veto power with peculiar favor. In the convention of 1837, which was held for the purpose of proposing amendments to our Constitution, the identical proposition now made by the Senator from Kentucky was brought forward, and was repudiated by a vote of 103 to 14. This convention was composed of the ablest and most practical men in the State, and was almost equally divided between the two great rival parties of the country; and yet, in that body, but fourteen individuals could be found who were willing to change the Constitution in this particular.

Whilst the framers of the Constitution thought, and thought wisely, that in order to give this power the practical effect they designed, it was necessary that any bill which was vetoed should be arrested, notwithstanding a majority of Congress might afterwards approve the measure; on the other hand, they restrained the power, by conferring on two-thirds of each House the authority to enact the bill into a law, notwithstanding the veto of the President. Thus the existence, the exercise, and the restraint of the power are all harmoniously blended, and afford a striking example of the mutual checks and balances of the Constitution, so admirably adapted to preserve the rights of the States and of the people.

The last reason to which I shall advert why the veto power was adopted, and ought to be preserved, I shall state in the language of the seventy-third number of the *Federalist*:

"The propensity (says the author) of the Legislative Department to intrude upon the rights, and to absorb the powers of the

other departments, has been already more than once suggested. The insufficiency of a mere parchment delineation of the boundaries of each, has also been remarked upon, and the necessity of furnishing each with constitutional arms for its own defence, has been interred and proved. From these clear and indubitable principles results the propriety of a negative, either absolute or qualified, in the Executive, upon the acts of the legislative branches."

The Executive, which is the weaker branch, in the opinion of the *Federalist*, ought not be left at the mercy of Congress, "but ought to possess a constitutional and effectual power of self-defence." It ought to be able to resist encroachments on its constitutional rights.

I admit that no necessity has ever existed to use the veto power for the protection of the Executive, unless it may possibly have been in a single instance; and in it there was evidently no intention to invade his rightful powers. I refer to the "Act to appoint a day for the annual meeting of Congress." This act had passed the Senate by a majority of 34 to 8; but when it was returned to this body by General Jackson with his objections, the majority was reversed, and the vote stood but 16 in favor to 23 against its passage.

The knowledge of the existence of this veto power, as the framers of the Constitution foresaw, has doubtless exerted a restraining influence on Congress. That body have never attempted to invade any of the high Executive powers. Whilst such attempts have been made by them to violate the rights of the States and of the people, and have been vetoed, a sense of justice, as well as the silent restraining influence which proceeds from a knowledge that the President possesses the means of self protection, has relieved him from the necessity of using the veto for this purpose.

Mr. President, I did not think, at the time of its delivery, that the speech of the distinguished Senator from Kentucky was one of great power; although we all know that nothing he can utter is devoid of eloquence and interest. I mean only to say that I did not then believe his speech was characterized by his usual ability; and I was disposed to attribute this to the feeble state of his health and the consequent want of his usual buoyancy of spirit. Since I have seen it in print, I have changed my opinion; and for the first time in my life I have believed that a speech of his could appear better and more effective in the reading than in the delivery. I do not mean to insinuate that any thing was added in the report of it; for I believe it contains all the arguments used by the Senator and no more; but I was astonished to find, upon a careful examination, that every possible argument had been urged which could be used in a cause so hopeless. This is my apology for having detained the Senate so long in attempting to answer it.

[Mr. CLAY observed that he never saw the speech, as written out by the Reporter, till he read it in print the next morning; and, although he found some errors and misconceptions, yet, on the whole, it was very correct, and, as well as he could recollect, contained all the arguments he did make use of, and no more.]

Mr. BUCHANAN. I did not intend, as must have been evident to the Senator, to produce the impression that any thing had been added. My only purpose was to say that it was a better speech than I had supposed, and thus to apologise to the Senate for the time I had consumed in answering it.

I shall briefly refer to two other arguments urged

by the Senator, and shall then take my seat. Why, says he, should the President possess the veto power for his protection, whilst it is not accorded to the Judiciary? The answer is very easy. It is true that this power has not been granted to the Judiciary in form; but they possess it in fact to a much greater extent than the President. The Chief Justice of the United States and his associates, sitting in the gloomy chamber beneath, exercise the tremendous and irresponsible power of saying to all the departments of the Government, "hitherto shalt thou go, and no further." They exercise the prerogative of annulling laws passed by Congress, and approved by the President, whenever in their opinion, the legislative authority has transcended its constitutional limit. Is not this a self-protecting power much more formidable than the veto of the President? Two-thirds of Congress may overrule the Executive veto; but the whole of Congress and the President united, cannot overrule the decisions of the Supreme Court. Theirs is a veto on the action of the whole Government. I do not say that this power, formidable as it may be, ought not to exist: on the contrary, I consider it to be one of the wise checks which the framers of the Constitution have provided against hasty and unconstitutional legislation, and is a part of the great system of mutual restraints which the people have imposed on their servants for their own protection. This, however, I will say, and that with the most sincere respect for the individual judges; that in my opinion, the whole train of their decisions from the beginning favors the power of the General Government at the expense of State rights and State sovereignty. Where, I ask, is the case to be found upon their records, in which they have ever decided that any act of Congress, from the alien and sedition laws until the present day, was unconstitutional, provided it extended the powers of the Federal Government? Truly they are abundantly able to protect their own rights and jurisdiction against either Congress or the Executive, or both united.

Again the Senator asks, why has not the veto been given to the President on the acts of conventions held for the purpose of amending our Constitution? If it be necessary to restrain Congress, it is equally necessary, says he, to restrain conventions. The answer to this argument is equally easy. It would be absurd to grant an appeal, through the intervention of the veto, to the people themselves, against their own acts. They create conventions by virtue of their own undelimited and inalienable sovereignty; and when they speak, their servants, whether Legislative, Executive, or Judicial, must be silent. Besides, when they proceed to exercise their sovereign power in changing the forms of their Government, they are peculiarly careful in the selection of their delegates—they watch over the proceedings with vigilant care, and the Constitution proposed, by such a convention, is never adopted until after it has been submitted to the vote of the people. It is a mere proposition of the people themselves, and leaves no room for the action of the veto power.

[Here Mr. CLAY observed, that Constitutions, thus formed, were not afterwards submitted to the people.]

Mr. BUCHANAN. For many years past, I believe that this has always been done, as it always ought to be done, in the States: and the Federal Consti-

tution was not adopted until after it had been submitted to a convention of the people of every State in the Union.

So much in regard to the States. The Senator's argument has no application whatever to the Federal Constitution, which has provided the mode of its own amendment. It requires two-thirds of both House the very majority required to overrule a Presidential veto, even to propose any amendment; and before such an amendment can be adopted, it must be ratified by the Legislatures, or by convention, in three-fourths of the several States. To state this proposition, is to manifest the absurdity, nay the impossibility of applying the veto power of the President to amendments, which have thus been previously ratified by such an overwhelming expression of the public will. This Constitution, ours, with all its checks and balances, is a wonderful invention of human wisdom. Founded upon the most just philosophical principles, and the deepest knowledge of the nature of man, it produces harmony, happiness, and order, from elements, which, to the superficial observer, might appear to be discordant.

On the whole, I trust not only that this veto power may not be destroyed, but that the vote of the Senator's amendment may be of such a character as to settle the question, at least during the present generation. Sir, of all the Executive power it is the one least to be dreaded. It cannot create; it can originate no measure; it can change no existing law; it can destroy no existing institution. It is a mere power to arrest hasty and inconsiderate changes, until the voice of the people, who are alike the masters of Senators, Representatives and President, shall be heard. When it speaks, we must all bow with deference to the decree. Public opinion is irresistible in this country. It will accomplish its purpose by the removal of Senator, Representatives, or President, who may stand in its way. The President might as well attempt to stay the tides of the ocean by erecting mounds of sand, as to think of controlling the will of the people by the veto power. The mounting waves of popular opinion would soon prostrate such a feeble barrier. The veto power is every thing when sustained by public opinion; but nothing without it.

What is this Constitution under which we live, and what are we? Are we not the most prosperous, the most free, and amongst the most powerful nations on the face of the earth? Have we not attained this pre-eminence, in a period brief beyond any example recorded in history, under the benign influence of this Constitution, and the laws which have been passed under its authority? Why, then, should we, with rude hands, tear away one of the cords from this wisely balanced instrument, and thus incur the danger of impairing or destroying the harmony and vigorous action of the whole? The Senator from Kentucky has not, in my opinion, furnished us with any sufficient reasons.

And after all, what harm can this veto power ever do? It can never delay the passage of a great public measure, mandated by the people, more than two, or at the most, five years. Is it not better, then, to submit to this possible inconvenience, (for it has never yet occurred,) than to destroy a power altogether? It is not probable that it ever will occur; it is because if the President should disregard the will of the people, any important constitutional measure which they desired, he would sign his own political death warrant. No President will ever knowingly attempt to do it; and his means of knowledge, from the ordeal through which he must have passed previous to his election, are superior to those of any other individual. He will never, unless in cases scarcely to be imagined, resist the public will when fairly expressed. It is beyond the nature of things to believe otherwise. The veto power is the feature of our Constitution which is most conservative of the rights of the States and the rights of the people. May it be perpetual!





